

State of Arizona
House of Representatives
Forty-eighth Legislature
Second Regular Session
2008

House Engrossed
FILED
JANICE K. BREWER
SECRETARY OF STATE

CHAPTER 151
HOUSE BILL 2638

AN ACT

AMENDING SECTION 42-6010, ARIZONA REVISED STATUTES; RELATING TO MUNICIPAL TAX
INCENTIVES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 42-6010, Arizona Revised Statutes, is amended to
3 read:

4 42-6010. Business location municipal tax incentives;
5 prohibition; penalty; exceptions; definitions

6 A. ~~A city or town that has~~ IF AT LEAST SIXTY-FIVE PER CENT OF THE LAND
7 AREA WITHIN A CITY'S OR TOWN'S exterior boundaries IS located ~~entirely~~ within
8 the exterior boundary of a metropolitan statistical area having a population
9 of more than two million persons, THE CITY OR TOWN shall not offer or provide
10 a tax incentive to a business entity as an inducement or in exchange for
11 locating or relocating a retail business facility in the city or town.

12 B. A city or town that violates this section is subject to a penalty
13 equal to the amount of the incentive realized by the taxpayer, extended over
14 a period of sixty months. The department of revenue shall notify the state
15 treasurer to withhold the amount of the penalty from monies otherwise payable
16 to the city or town as provided by section 42-5029, subsection J.

17 C. The city or town shall report to the department of revenue the
18 value of any tax incentive used as an inducement or in exchange for locating
19 or relocating a retail business facility in the city or town. For the
20 purposes of this subsection, the value includes all negotiated amounts, in
21 any form and whether actual, realized or contingent, over the term of the
22 incentive agreement.

23 D. This section does not apply with respect to:

24 1. Municipal services and benefits generally afforded by ordinance to
25 all new businesses in the city or town, having no direct affect on municipal
26 tax levies.

27 2. Tax incentives that are afforded to all existing retail business
28 facilities in the city or town.

29 3. Tax incentives for locating retail business facilities in an area
30 designated as a redevelopment project pursuant to title 36, chapter 12,
31 article 3 where the average household income is less than the average city
32 household income as determined by the United States census bureau.

33 4. Incentives consisting of reimbursement for public infrastructure
34 dedicated to and accepted and controlled upon completion of the project by
35 the city or town, county, state or a private utility where no other political
36 subdivision provides such utility for transportation, water, sewer,
37 electrical, drainage, the fair market value of real property necessary for
38 the public infrastructure and other necessary public infrastructure. This
39 paragraph does not apply to parking lots, parking structures or parking
40 facilities or other structures or amenities owned or controlled by a private
41 entity.

42 5. Incentives that are offered for the purpose of preserving
43 historical buildings and other structures.

44 6. Incentives that are offered for cleanup or other remediation
45 activities at a brownfields site under title 49, chapter 2, article 1.1 or

1 the comprehensive environmental response, compensation, and liability act of
2 1980 (P.L. 96-510, 94 Stat. 2767; 42 United States Code sections 9601 through
3 9657), commonly known as "superfund".

4 E. To qualify as exempt from the penalty, an incentive under
5 subsection D of this section that is offered in exchange for expenses
6 incurred by the business entity must be in the form of a reimbursement of the
7 expenses and may not exceed or otherwise be disproportional to the actual
8 cost incurred.

9 F. this section does not apply to tax incentives that were referred to
10 a vote of the qualified electors of the city or town before July 1, 2007 and
11 approved by the qualified electors of the city or town.

12 G. For the purposes of this section:

13 1. "Metropolitan statistical area" means a geographical area
14 consisting of cities, towns and other populated areas defined for federal
15 statistical and census purposes by the United States office of management and
16 budget with technical assistance from the United States bureau of the census.

17 2. "Retail business facility" means a store, warehouse or other
18 improvement to real estate where at least one-half of the business conducted
19 on the premises consists of retail sales of tangible personal property to the
20 ultimate consumer, measured by either the number of employees assigned to
21 retail sales or the square footage of the facility used for retail
22 sales. For the purposes of this paragraph, retail sales does DO not include:

23 (a) Sales of food and beverage for consumption on the premises of the
24 facility.

25 (b) The distribution without charge of promotional products that
26 display the company logo or trademark.

27 (c) Sales solely to company employees.

28 3. "Tax incentive" means any waiver, exemption, deduction, credit,
29 rebate, discount, deferral or other abatement or reduction of the normal
30 municipal tax liability of an individual taxpayer that otherwise applies to
31 similar existing taxpayers and properties in the city or town, however
32 denominated, computed or applied, and generally understood as an inducement
33 for the taxpayer to locate a business facility or other operation in the city
34 or town.

APPROVED BY THE GOVERNOR MAY 1, 2008.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 1, 2008.